

CITY COUNCIL COMMITTEE

HOUSING & ECONOMIC DEVELOPMENT

Ron Leone, Chair
Dan Helix, Committee Member

5:30 p.m., Monday, March 24, 2014

Building A, Garden Conference Room
1950 Parkside Drive, Concord

ROLL CALL

PUBLIC COMMENT PERIOD

1. **CONSIDERATION** – City of Concord Philosophy and Strategy – Bed Bug Response Pilot Program. Report by Russ Norris, Police Sergeant.
2. **ADJOURNMENT**

In accordance with the Americans with Disabilities Act and California Law, it is the policy of the City of Concord to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require a copy of a public hearing notice, or an agenda and/or agenda packet in an appropriate alternative format; or if you require other accommodation, please contact the ADA Coordinator at (925) 671-3361, at least five days in advance of the meeting. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

Distribution: City Council
Valerie Barone, City Manager
Scott Johnson, Assistant City Manager
Mark Coon, City Attorney
Robin Heinemann, Police Lieutenant
Russ Norris, Police Sergeant
Guy Swanger, Police Chief
Cindy Turlington, Building Inspector
Victoria Walker, Director of Community & Economic Development
Robert Woods, Chief Building Official
Administrative Services

**REPORT TO COUNCIL COMMITTEE ON
HOUSING AND ECONOMIC DEVELOPMENT****TO THE HONORABLE COMMITTEE MEMBERS:**

DATE: March 24, 2014

**SUBJECT: CITY OF CONCORD PHILOSOPHY AND STRATEGY
BED BUG RESPONSE PILOT PROGRAM****Report in Brief**

The City of Concord recognizes bed bugs as a public health pest, capable of producing negative physical health, mental health and economic consequences.¹ The City is devoted to providing information and available resources to property owners and tenants alike to aide in their efforts to abate bedbugs. The City of Concord encourages owners and tenants to work cooperatively to address bed bugs in a prompt manner to help prevent the spread of bugs to adjacent rental units and within the community. In circumstances when effective cooperation cannot be achieved, the City of Concord will pilot a program that addresses the matter as a public nuisance subject to civil, criminal, and administrative remedies.

Staff recommends that the Committee receive this report.

Background

In years' past, dialogue between representatives from County staff and City of Concord Chief Building Official Vance Phillips resulted in a conclusion that bedbugs were a public health matter and not a public nuisance. As a result, infestations were considered to be the jurisdiction of Contra Costa County Public Health and not subject to City of Concord code enforcement action. The basis of this conclusion rested mainly on Concord City Council Resolution 92-120 (see attached), consenting to the enforcement of Health Laws and Regulations by the Health Officer of Contra Costa County. Since this resolution, all public health matters in Concord, including bedbug infestations, were referred to the County Health Officer.

In the years since the passage of Resolution 92-120, County Public Health adopted a bedbug response strategy consisting of education instead of enforcement due to the philosophy that bedbugs were a shared civil responsibility between landlord and tenants. As a result, County agencies did not commonly seek resolution through code enforcement actions.

In August 2013, a representative of Tenants Together, a non-profit tenant advocacy organization, approached the City to claim that the City and County's lack of enforcement measures were allowing a significant bedbug problem to develop unabated in the Monument Boulevard corridor. This ultimately led to

¹ Centers for Disease Control and Prevention and U.S. Environmental Protection Agency. Joint statement on bed bug control in the United States from the U.S. Centers for Disease Control and Prevention (CDC) and the U.S. Environmental Protection Agency (EPA). Atlanta: U.S. Department of Health and Human Services; 2010.

**CITY OF CONCORD PHILOSOPHY AND STRATEGY
BED BUG RESPONSE PILOT PROGRAM**

March 24, 2014

Page 2

extensive interagency discussion with the County on the best manner of addressing the issue. Tenants from the Monument Boulevard corridor appealed to City Council for assistance in October. The California Apartment Association hosted a bedbug prevention training session in November, and Tenants Together hosted several tenant advocacy meetings throughout the fall.

A best practices meeting was held at the Monument Crisis Center on November 18th, attended by Concord Councilmember Birsan, Contra Costa County Director of Environmental Health Marilyn Underwood, Mara Gold from Supervisor Karen Mitchoff's office, and representation from City of Concord Multi-Family Inspection, Concord PD Code Enforcement, the California Apartment Association, and Tenants Together. The purpose of the meeting was to identify current bedbug response practices within the County and create a foundation for future refinement of these processes. Tenants Together staff expressed strong concerns that the traditional education strategy was inadequate and was not holding scofflaw property owners accountable. Tenants Together urged a collaborative response between County Public Health and Code Enforcement which, under existing law, would allow Cities to enforce substandard building laws based on bedbug infestation identified by County Public Health. The meeting was adjourned pending future discussion of this approach.

Since November 18th, staff and representatives from County Public Health have undergone a review of applicable statutes to identify the City's role in this matter. A pilot program for the City of Concord's Bed Bug Strategy (attached) was crafted that holds the landlord and tenant jointly responsible for bedbug abatement, with education on the process provided by Code Enforcement staff. However, in cases where voluntary abatement is unsuccessful, Code Enforcement action will hold the property owner responsible for abatement through established civil, criminal, or administrative remedies. The effectiveness of this pilot program will be evaluated six months from the time of adoption, and Staff will bring revision recommendations before the Committee at that time.

The purpose of this pilot is not to place undue hardship on Concord property owners. However, it has become clear that, in some cases, education alone is allowing bedbug infestations to grow unchecked. There is no question bedbugs affect tenants, but allowed to remain unabated and spread, bedbugs may also impact Concord on a wider quality of life and economic scale. The pilot seeks to decrease the impact of bedbugs on individuals and the City alike, first through cooperation and voluntary compliance, and only when this fails, to enforce provisions of the Code to compel abatement.

Fiscal Impact

If approved, this pilot program will become integrated into existing code enforcement processes. County Public Health staff estimates that there could be hundreds of infested rental units in the City of Concord. It is unclear how many of these will result in a complaint to Code Enforcement in the 2014 calendar year. Due to outreach and follow-up requirements, each case is projected to require an average of 6 hours to investigate and close. In cases requiring inspection by the County Health Officer, the County will charge the City \$174.00 per hour to include travel, inspection, and report writing. It is unknown at this time the frequency in which County Health Officer assistance will be required by City staff. The fiscal impact of this pilot will be evaluated six months from adoption, and Staff will bring recommendations for revision before the Committee at that time.

**CITY OF CONCORD PHILOSOPHY AND STRATEGY
BED BUG RESPONSE PILOT PROGRAM**

March 24, 2014

Page 3

Public Contact

The City Council Committee Agenda was posted. Staff have met with representatives from County Public Health, Tenants Together, and the Monument Crisis Center. Each have been briefed on the purpose and process of the pilot. The California Apartment Association has been provided with a copy of the program but were unable to meet prior to this report to the Committee.

Recommendation for Action

Staff recommends that the Committee receive this report.



Scott P. Johnson
Assistant City Manager
Scottp.johnson@cityofconcord.org

Prepared by: Russ Norris
Sergeant -- Code Enforcement
Russ.Norris@cityofconcord.org

Reviewed by: Guy Swanger
Chief of Police
Guy.Swanger@cityofconcord.org

Attachments: City of Concord Resolution 92-120
Pilot Program for the City of Concord's Bed Bug Strategy

BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA

A Resolution Consenting to the Enforcement of Health Laws and Regulations by the Health Officer of Contra Costa County RESOLUTION NO. 92-120

WHEREAS, the City of Concord does not have its own health department and health officer; and

WHEREAS, Health and Safety Code §476 provides that the County Health Officer shall enforce all health laws and regulations in incorporated areas of the County when the governing body of the City consents to such enforcement by resolution or ordinance; and

WHEREAS, the Contra Costa County Health Services Department has been enforcing state and local health laws in Concord; and

WHEREAS, the City Council wishes to give consent for the Health Officer of Contra Costa County to continue enforcing health laws and regulations within the City of Concord.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES RESOLVE AS FOLLOWS:

Section 1. Consent is given for the Health Officer of Contra Costa County to enforce and observe in the City of Concord all of the following:

A. Orders, quarantine regulations, and rules prescribed by the State Department of Health Services and other rules and regulations issued under the provisions of the Health and Safety Code.

B. Statutes relating to public health.

//

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

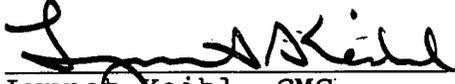
Section 2. The City Clerk is directed to serve a certified copy of this resolution on the Clerk of the Board of Supervisors of Contra Costa County.

Section 3. This resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED by the City Council of the City of Concord on December 1, 1992 by the following vote:

- AYES:** Councilmembers - B.Campbell, C.Coll, M.DeSaulnier, L.Mashore, N.Gore
- NOES:** Councilmembers - None
- ABSTAIN:** Councilmembers - None
- ABSENT:** Councilmembers - None

I HEREBY CERTIFY that the foregoing Resolution No. 92-120 was duly and regularly adopted at a regular joint meeting of the City Council and the Redevelopment Agency on December 1, 1992.


Lynnet Keihl, CMC
City Clerk

APPROVED AS TO FORM:


Michael D. Martello
City Attorney



Sergeant Russ Norris
Concord Police Department
1350 Galindo Street
Concord, CA 94520
Phone: (925) 250-5041
Fax: (925) 691-6549
russn@cpd.ci.concord.ca.us

Code Enforcement Unit

CITY of CONCORD
Bed Bug Strategy
Pilot Program

Philosophy

The City of Concord recognizes bed bugs as a public health pest, capable of producing negative physical health, mental health and economic consequences. The City is devoted to providing information and available resources to property owners and tenants alike to aide in their efforts to abate Bed Bugs. The City of Concord encourages owners and tenants to work cooperatively to address bed bugs in a prompt manner to help prevent the spread of bugs to adjacent units and within the community. In circumstances when effective cooperation cannot be achieved, the City of Concord commits to address the matter as a public nuisance subject to civil, criminal, and administrative remedies.

Within this philosophy, each stakeholder has several roles and responsibilities. If even a single responsibility is overlooked, the bedbug nuisance may continue.

Tenant's Role

- Contact the landlord in writing immediately upon suspecting a bedbug infestation.
- Review strategies for addressing bed bugs located at <http://www.cityofconcord.org/bedbugs/>.
- Follow recommended procedures for bedbug control.
- Cooperate with the property owner and pest management professionals during inspections and abatement.

Property Owner's Role

- Review bed bug response strategies at <http://www.cityofconcord.org/bedbugs/>
- Upon receipt of a bed bug Courtesy Notice from the Concord Police Code Enforcement Unit, immediately contact the assigned Code Enforcement Officer to further discuss the problem.
- Respond immediately to bedbug complaints by:
 - Hiring a pest management professional to perform bed bug inspection and abatement for the entire building.
 - Create a written abatement plan with the pest management professional.
 - Work with tenants to rid the property of bedbugs.
 - Provide a written copy of the pest management professional's abatement results to the Concord Police Code Enforcement Unit.

City of Concord's Role

- The Concord Police Code Enforcement Unit will respond to all bed bug complaints using the procedure described below.
- In situations where tenant and property owner cooperation cannot be achieved, the Code Enforcement Unit will abate the nuisance with the assistance of the Contra Costa County Health Officer.

Bed Bug Abatement and Enforcement Procedure

The following procedure is to be followed in all cases a bed bug complaint is received by the Concord Code Enforcement Unit. The procedure is structured so as to cause bed bug abatement to be the joint responsibility of the property owner and tenant. Abatement and enforcement action will occur only in the event this relationship is demonstrated to be ineffective or to have failed. Any enforcement action resulting from a bed bug complaint will follow existing Code Enforcement Unit procedure, and Code Enforcement staff retains the right to modify this procedure to suit identified needs and exigencies.

1. Complaint Phase

- a. Upon receipt of a bed bug complaint, a Code Enforcement case will be generated and the case will be assigned to a Code Enforcement Officer.
 - i. Anonymous complaints will NOT be accepted.
 - ii. Complaints will be accepted ONLY from tenants personally experiencing a bedbug problem. Complaints presented by third parties on behalf of effected tenants will not be accepted.
- b. The Code Enforcement Officer will conduct an external inspection of the property and note other unrelated Code violations.

2. Courtesy Notice Phase

- a. The Code Enforcement Officer will mail a courtesy notice (Attachment A) to the property owner, to include a violation of "15.50.050 (7) CMC / 17920.3HS -- Maintenance standards (Bed Bugs)" as well as other identified Code violations.
 - i. Consistent with other Code Enforcement cases, the Courtesy Notice shall have a correction deadline of 10 days from the date of mailing. This date is subject to extension based on needs and constraints identified between the Code Enforcement Officer and the property owner, but shall not extend beyond 30 days.
 1. Examples of circumstances warranting an extension may include unavailability of pest management professionals or tenants to accommodate inspection dates, the size of the property, or the number of rental units.
- b. The Code Enforcement Officer will contact the complainant to:
 - i. Review strategies for addressing bed bugs located at <http://www.cityofconcord.org/bedbugs/>
 - ii. Reinforce the necessity that the tenant cooperate with the property owner during the abatement process.

3. Voluntary Compliance Phase

- a. Prior to the correction deadline, the property owner will arrange for a pest management professional to perform a bed bug inspection, and abatement as necessary. The pest management professional will be required to provide

- a written report concluding that any identified bed bug infestation has been eliminated, and noting any necessary follow-up measures.
- b. The property owner will provide to Code Enforcement a copy of the abatement report, to be included with the Code Enforcement case.
 - i. The abatement report will also be provided to Contra Costa County Public Health.
 - c. Once a report has been submitted to Code Enforcement confirming successful abatement, the case will be closed and the tenant notified of the case status.

4. Non-Compliance Phase

- a. Code Enforcement may initiate an enforcement and abatement process when it is determined that all three of the following conditions exist:
 - i. The correction deadline stated in the Courtesy Notice has passed;
 - ii. The property owner is not voluntarily taking steps to achieve abatement by stated deadlines. (i.e., a demonstrated lack of progress),
 - iii. It is apparent that the tenant has cooperated with abatement processes or has otherwise performed localized abatement processes within their own unit.
- b. A Notice of Violation (Attachment B) will be sent to the property owner via certified mail. The Notice will include notification of all identified code violations including “15.50.050 (7) CMC / 17920.3HS -- Maintenance standards (Bed Bugs)”
 - i. Consistent with other Code Enforcement cases, the Notice of Violation shall have a correction deadline of 10 days from the date of mailing. This date is subject to extension based on needs and constraints identified between the Code Enforcement Officer and the property owner, but shall not extend beyond 30 days.
- c. Prior to the correction deadline, if the Code Enforcement Officer receives from the Property Owner a report from a pest management professional concluding that any identified bed bug infestation has been eliminated, the matter will be considered resolved and the case closed.
- d. After the correction deadline has passed, the Code Enforcement Officer will coordinate with the tenant and an inspector from Contra Costa County Public Health to schedule an inspection date/time.
 - i. The Code Enforcement Officer and the Health Officer will determine the need for a member of the Code Enforcement Unit to be present for the inspection.
- e. Upon receipt of a written report confirming bed bug infestation from the Contra Costa County Public Health Inspector, the Code Enforcement Officer will initiate abatement proceedings pursuant to Concord Municipal Code Section 1.05.210 (Enforcement remedies), or 8.25 Article 1 (Public Nuisances - Abatement by City)
 - i. The Code Enforcement Officer will file a Notice of Noncompliance with the Office of the County Recorder
- f. As the abatement proceeds, the Contra Costa County Public Health Inspector may be required to re-inspect the location. The manner in which this is completed will be determined by the Inspector and the assigned Code Enforcement Officer.

- g. At any time during the abatement process that the Inspector provides a written report concluding the bed bug infestation has been eliminated from the building, the matter will be considered resolved and the case closed.
 - i. Fees and fines incurred against the property by the City of Concord during the abatement process may be collected as prescribed in the Municipal Code Chapter 8.25 Article I.

Attachment A



Concord Police Department

1350 Galindo St., Concord CA 94520

Phone: 925-671-3075 ~ Fax: 925-691-6640

Code Enforcement Unit

February 21, 2014

1950 PARKSIDE DR
CONCORD, CA 94519

Subject: **Notify Letter - 1350 GALINDO ST**
 Case Number - CE140552
 Assessor's Parcel Number - 126124036

Dear Property Owner:

The City of Concord has been working closely with our residents to increase the livability and desirability of all neighborhoods within the City of Concord. To support that goal several ordinances have been enacted within our Municipal Code, which help preserve the appearance of our neighborhoods. It has come to our attention that your property, in its current condition, is not in full compliance with the Code.

Recognizing that many of our residents may not be aware of the Code requirements, and therefore inadvertently violate the ordinances, we would like to take this opportunity to provide you with information about the specific violation(s) noted on your property, as well as the corrective action required. They are as follows:

- 1 VIOLATION:15.50.050 (7) CMC / 17920.3HS -- Maintenance standards (Bed Bugs)
REGULATION: Pursuant to the California Code of Regulations, California Health and Safety Code, and Concord Municipal Code, residential rental buildings shall be maintained free of rodent, insect or vermin infestation, which creates an unsafe or unsanitary environment on the subject, or adjacent buildings or properties. Buildings in this condition are identified as "substandard" pursuant to section 17920.3 of the California Health and Safety Code and "public nuisances" pursuant to section 8.25.030 of the Concord Municipal Code, and to civil, criminal, and administrative remedies.
CORRECTIVE ACTION REQUIRED: Abate bed bug infestation and provide proof of abatement to the Code Enforcement Unit

If you should have any questions or would like further information, please contact me in the Code Enforcement Unit at 925-671-5041. **Please correct the above condition by 03/20/2014.** A re-inspection will be performed on or shortly after this date.

Sincerely,

Russ Norris
Code Enforcement Officer

Attachment B



Concord Police Department

1350 Galindo St., Concord CA 94520

Phone: 925-671-3075 ~ Fax: 925-691-6640

Code Enforcement Unit

February 21, 2014

NOTICE OF VIOLATION

1950 PARKSIDE DR
CONCORD, CA 94519

Subject: **Notify Letter -** 1350 GALINDO ST
 Case Number - CE140552
 Assessor's Parcel Number - 126124036

Dear Property Owner,

A recent inspection documented the fact that your property is not in compliance with the Concord Municipal Code. Accordingly, the purpose of this letter is to provide you with the opportunity to correct the continuing violation that exists on the property.

The specific violation with the required corrective action is listed below:

- 1 VIOLATION: 15.50.050 (7) CMC / 17920.3HS -- Maintenance standards (Bed Bugs)
REGULATION: Pursuant to the California Code of Regulations, California Health and Safety Code, and Concord Municipal Code, residential rental buildings shall be maintained free of rodent, insect or vermin infestation, which creates an unsafe or unsanitary environment on the subject, or adjacent buildings or properties. Buildings in this condition are identified as "substandard" pursuant to section 17920.3 of the California Health and Safety Code and "public nuisances" pursuant to section 8.25.030 of the Concord Municipal Code, and to civil, criminal, and administrative remedies.
CORRECTIVE ACTION REQUIRED: Abate bed bug infestation and provide proof of abatement to the Code Enforcement Unit

Please correct the violation by 03/14/2014. You are advised that failure to correct the violation by this date will result in the issuance of administrative citations. In addition, a Declaration of Public Nuisance will be filed against the property with the County Recorder's Office.

The fine amount for the first citation is \$100.00 plus a re-inspection fee of \$183.00. The second citation amount is \$200.00 and the third and subsequent citations are \$500.00, plus the re-inspection fee. You will be responsible for all administrative costs involved in the City's investigation, including fees for each re-inspection. Please be advised, that subject to the provisions of Concord Municipal Code Section 8.25.070

(Administrative Citations and Fines), the City will assess the fines and administrative costs against the property if you fail to pay,

Related Statutes

California Health and Safety Code 101375

Summary: When the governing body of a city in the county consents by resolution or ordinance, the county health officer shall enforce and observe in the city all statutes relating to the public health

California Health and Safety Code 17920.3

Summary: Lists conditions creating a substandard building, including section (12), which specifically identifies infestation of insects, vermin, or rodents as determined by a health officer.

Concord Municipal Code 8.25.030 -- Public Nuisances.

Summary: Any violation of this Code shall constitute a public nuisance and shall be subject to the civil, criminal, and administrative remedies set forth in this article.

Concord Municipal Code 8.25.050 -- Owner's responsibility

Summary: The owner of any premises within the city has the primary responsibility to keep said premises free of any public nuisance.

Concord Municipal Code 15.50.050 -- Exterior Maintenance Standards

Summary: Pursuant to the California Code of Regulations, California Health and Safety Code, and Concord Municipal Code, residential rental buildings shall be maintained free of rodent, insect or vermin infestation, which creates an unsafe or unsanitary environment on the subject, or adjacent buildings or properties

Concord Municipal Code 15.50.040 -- Compliance with Codes and Standards

Summary:

- *Allows the City to conduct inspections of rental dwelling units containing four units or more and their associated properties.*
- *Requires that structures not in compliance with the provisions of this code be altered or repaired to obtain the required level of compliance or demolished*

Concord Municipal Code 15.50.080 -- Notification of Inspection; Procedure

Summary:

- *Requires a minimum of 14 days notification of property owner prior to an inspection.*
- *The owner shall accompany and escort the inspector during the course of the inspection*

Concord Municipal Code 15.50.130 -- Violations

Summary:

When an inspection confirms that a violation exists, a Notice of Violation (AKA Notice and Order to Correct Violation) shall be served to the property owner via certified mail. If the violation is found to be uncorrected at the time of re-inspection, a formal notice of noncompliance documenting any uncorrected violations shall be mailed to the property owner. The notice of noncompliance shall be filed in the office of the County Recorder, along with a certificate describing the property and certifying that the building is substandard.

Concord Municipal Code 15.50.170 -- Retaliatory eviction

Summary: It shall be unlawful for a landlord to recover possession of a rental unit in retaliation against a tenant for exercising his right pursuant to state law.